

REMARKS

Claims 1 through 20 were restricted. Applicant made an election of claims 1 through 10 without traverse.

In the Office Action of September 21, 2004, claims 1 through 10 were examined and stand rejected under 35 USC 112 and 35 USC 103 (a).

The specific rejections set forth in the Office Action are as follows:

Claims 1 through 10 rejected under 35 USC 112, Second Paragraph.

Claims 1 through 10 rejected under 35 USC 103 (a) based on the Yost patent taken in combination with the Al-Rawi patent.

Claim 7 rejected under 35 USC 103 (a) based on the Yost patent in view of the Al-Rawi patent, and further in view of the Zerbetto patent.

Applicant responds as follows:

I. Claims 1 through 10 rejected under 35 USC 112, 2nd Paragraph

Claims 1 through 10 are indefinite for double use of the same term in the claim. Examiner is correct and the new claims change the second occurrence of the phrase “a dust reservoir” to “said dust reservoir”.

Also, the claim and specification objections have been obviated by the above amendments.

II. Claims 1 through 10 rejected under 35 USC 103 (a), based on the Yost patent in combination with the Al-Rawi patent.

The claims 1 through 10 were rejected as obvious over the Yost patent in view of Al-Rawi patent. Applicants respectfully disagree with this rejection. The Yost patent is directed to a fruit tree pollinator that relies upon a blow tube for moving air to dispense pollen. It is not directed to a pest control dust applicator and does not have the same structure as the present invention device. It does not have an both an air conduit and a pole, as in the present invention, because the pole is used as an air pipe for the blow input. Although there are some similarities in that both the present invention and this prior art has a pole and a powder reservoir, not only does Yost lack a separate conduit, but it lacks an air compressor. While someone in the field of pollination might use a blow pipe as taught by Yost, ingestion of a little pollen is not dangerous; in fact, pollen is sold in health food stores for healthy human ingestion. In the pest control field, the objective is always zero ingestion by the exterminator. No one in the field of extermination equipment would look to the pollination field for guidance on equipment design because it would be dangerous to design an extermination device based on a pollination device, because it could even be lethal and it would probably not meet required regulations. There is no motivation for one of

ordinary skill in the art of extermination devices to go to the pollination field, and there is strong motivation and reason not to.

The secondary reference Al-Rawi patent is directed to a date palm pollinator device and not a pest control dust applicator. For the same reasons as with Yost, there is no motivation to look in this art for extermination devices. Further, the Examiner states that the Al-Rawi patent teaches the use of air compressors. Contrary to the Examiner's statement, this prior art device has no air compressors. The patent clearly states that the Osamah Pollinators "require no heavy machinery and no compressed air." (See col.1, lines 24-30). The Al-Rawi patent also states that the Al-Rawi Pollinators are like the Osamah Pollinators and have tubes "connected to a battery operated air pump...with slightly increased air pressure and a prosthesis for blowing into the pump by mouth" (See col. 1, lines24-30). The Al-Rawi device uses no air compressor and teaches away from this. In fact, without any detail, there is negative allusion to prior art equipment that requires climbing trees, heavy equipment or compressed air and the strong implication that these rejected prior art devices are not portable and cannot be used in the manner of the Al-Rawi devices. Thus, both references teach away from air compressors, both references are directed to non-analogous art and both references fail to even teach the use of both an air conduit and a separate pole. These two elements are clearly recited as separate elements in the original and in the new claims of the present invention and are totally lacking in the prior art cited. For all of these reasons, the rejection should be

withdrawn. However, recognizing that a feature of the present invention not contained in the prior art but important to the present invention is the fact that the present invention air compressor is not only portable, but is separately located from the pole and is not directly attached to and is not inside the pole. These features further distinguish the present invention from the prior art and are now clearly set forth in the new claims.

III. Claim 7 rejected under 35 USC 103 (a), based on the Yost patent in combination with the Al-Rawi patent and the Zerbetto patent.

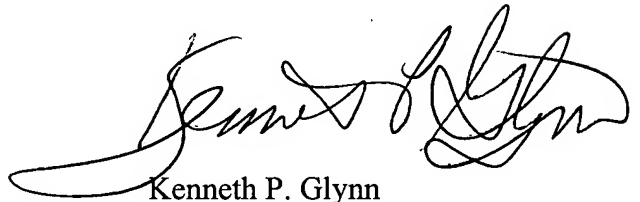
Claim 7 was rejected as obvious over the Yost patent in view of Al-Rawi patent and the Zerbetto patent. Although applicants acknowledge that Zerbetto teaches a graduated reservoir, and this, of itself is not a patentable event. However, Applicants respectfully disagree with this rejection. The Yost patent and the Al-Rawi patent are deficient for all of the reasons set forth above and the arguments set forth above are repeated here and are incorporated herein by reference, and Zerbetto does not overcome the deficiencies of the other two references relied upon. . For these reasons, it is urged that the new claims should be allowed.

IV. Conclusion

In view of all of the above amendments and remarks, it is urged that new claims 21 through 40 should be allowed. A Notice of Allowance is earnestly solicited.

Thank you.

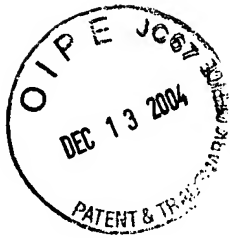
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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